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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
09/930,422	08/15/2001	Peter Ar-Fu Lam	BPCODE2	1550								
7590 Peter Ar-Fu Lam 20104 Wayne Ave. Torrance, CA 90503		09/25/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">BUCHANAN, CHRISTOPHER R</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3627</td><td></td></tr></table>		EXAMINER		BUCHANAN, CHRISTOPHER R		ART UNIT	PAPER NUMBER	3627	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/930,422

Applicant(s)

LAM, PETER AR-FU

Examiner

Christopher R. Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 and 36-51 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 19-39, 41-48, 50 and 51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-18, 40 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The rejections of claim 40 under Spackova et al. in view of Runton et al. and under Jones in view of Runton et al. have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-18, 40, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spackova et al. (US 4,539,585) in view of Powell (US 6,067,526).

Regarding claim 40, Spackova discloses a method of processing a body profile (BP) code describing the physical dimensions of a human body to facilitate garment shopping, the method including the steps of;

(1) defining m different physical dimensional parameters of said human body (the indicia segments (72) and coded indicia (74) are used to define various physical parameters of a subject wearing a form fitting garment, col. 4 line 1+, see Fig. 3),

(2) measuring a physical dimension of said body to produce m values for each of said m defined parameters (the orientation of each segment (72) and indicia (74) are computer identified (i.e., measured and stored, col. 4 line 7+) and used to provide a body location on which items of apparel should be worn (col. 4 line 18+), wherein

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orientation includes rotation and position (col. 3 line 54+), this constitutes measuring the body and producing values for the parameters); and

(3) processing said m values to produce a multiple digits BP code for representing said m values (the form fitting garment (71) contains a plurality of coded segments (72) which are used *in toto* to form a composite image of the garment and, therefore, of the subject's body since the garment is form fitting (col. 4 line 1+), the stored data for the composite image would result in a multi-digit code that represents the particular features (m values) for that body).

Regarding claim 1, a number of sizes are available for garments and the BP code is used to determine a correct fit for the subject's body (col. 4 line 15+). The exact manner by which the correct fit is determined (chart, image matching, etc.) would be a matter of design choice.

The method of Spackova differs from the claimed method in that the body profile code is not explicitly shown to be a compressed code (claim 40) or to include a primary compressed n1 digits code and a supplemental n2 digits code for representing said m values, wherein said n2 digits code further comprises a n3 digits code (claims 6-18 and 49).

Powell discloses translating data into a compressed code (binary format packets) to enable the data to be portable and easily transmitted over a computer network (see abstract, col. 7 line 45+). Powell also discloses the use of independent digits (N1 and N2) to segregate data and further discloses cross correlation of the network addressing code (col. 9 line 13+) to define the nature or relationship between data bit packets.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Spackova so that the body profile code is a compressed code and to include independent digits to segregate data, as taught by Powell, to make the code easier to store and transmit on a computer network. The examiner further notes that the feature of compressed code is an old expedient in the art and official notice is hereby taken of the use of compression data.

Furthermore, regarding claims 6-18 and 49, it would have been obvious to one of ordinary skill in the art at the time of the invention that the different data strings (n1 and n2 codes) could be used for a variety of applications (garment fitting, data manipulation, etc). In the examiner's view, the particular application selected for the n1 and n2 data strings (e.g., size chart for fitting purposes, enhance resolution, physical dimensional parameter, non-dimensional related information related to said human-body, out of range information of a parameter, etc.) would be a matter of design choice, and, therefore, that limitation would not hold patentable weight.

### ***Response to Arguments***

4. Applicant's arguments filed June 25, 2007 have been fully considered but they are not persuasive. Applicant argues that the prior art references used in the rejection do not disclose all of the claimed features of the instant invention. Applicant further argues that the rejection does not clearly point out the location in the prior art where particular limitations can be found and that a proper explanation of the examiner's interpretation and reasoning is not provided.

The examiner disagrees and stands by the rejection. The rejection above has been modified to include a detailed explanation of the examiner's interpretation of limitations disclosed in the prior art and the examiner's reasoning.

5. The applicant has inquired as to the possibility of double patenting occurring with the related US patent 7,194,327 issued to Lam. In the examiner's view, independent claim 40 of the instant application would involve nonstatutory (obviousness-type) double patenting with claim 1 of the Lam patent. If claim 40 of the application was allowed in its current state, a terminal disclaimer would be necessary.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Buchanan whose telephone number is 571-272-8134. The examiner can normally be reached on Mon.-Fri. 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

 9/21/07  
F. RYAN ZEENDER  
PRIMARY EXAMINER